

Court of Appeals, State of Michigan

ORDER

People of MI v Roger Kirk

Docket No. 282066

LC No. 06-100044

Michael J. Talbot
Presiding Judge

Helene N. White

Brian K. Zahra
Judges

The Court orders that the motion to file a late answer is GRANTED.

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the November 2, 2007, order of the Wayne Circuit Court and the May 1, 2006, order of the Thirty-Sixth District Court hereby are VACATED. The record does not reflect whether the Department of Corrections sent the prosecuting attorney by certified mail the written notice, request, and statement required by MCL 780.131(1) before the district court dismissed the charges. See *People v Stinnett*, 480 Mich 865; 737 NW2d 760 (2007). On remand, the trial court is DIRECTED to conduct an evidentiary hearing to determine when the Department of Corrections first caused to be delivered by certified mail to the prosecuting attorney the written notice, request, and statement required by MCL 780.131(1). The court is then to reconsider defendant's motion by applying those findings consistent with *People v Williams*, 475 Mich 245; 716 NW2d 208 (2006).

This order is to have immediate effect, MCR 7.215(F)(2). The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAY 14 2008

Date

Sandra Schultz Mengel
Chief Clerk